




King County

Department of Transportation
Metro Transit Division
General Manager's Office
201 S. Jackson Street
KSC-TR-0415
Seattle, WA 98104-3856

December 23, 2010

TO: Dow Constantine, King County Executive

FM: Kevin Desmond, General Manager, Metro Transit Division, Department of Transportation 

RE: Interim Metro Transit Advertising Policy

As you requested on December 20, 2010, the Transit Division has been reviewing the transit advertising policies. Based on our review and the purposes of our transit advertising program, subject to your approval, effective immediately the following Interim Transit Advertising Policy is adopted.

Interim Transit Advertising Policy

As of December 23, 2010, the following Interim Transit Advertising Policy ("Interim Policy") shall apply to King County transit advertising. This Interim Policy shall stay in place until such time as a permanent Transit Advertising Policy is adopted.

Purpose

The County is adopting this Interim Policy in order to advance the primary purpose of the transit advertising program, which is to generate revenue to benefit the transit system. The County's experience with transit advertising has lead to the conclusion that the display of certain non-commercial public issue advertisements interferes with the primary purpose of generating revenue to benefit the transit system.

The Interim Policy advances the primary purpose by prohibiting the class of advertisements that have detracted from the revenue generating purpose of transit advertising. This class of advertisements has created substantial controversy about transit advertising, interfered with and diverted resources from transit operations, and posed significant risks of harm to transit passengers, operators and vehicles. This class of advertisements creates an environment that is not conducive to achieving increased revenue for the benefit of the transit system.

The Interim Policy also continues the existing restrictions on other classes of advertisements that interfere with the purposes of the transit advertising program. The County's transit advertising program is intended to continue to be a nonpublic forum for limited expression consistent with the purposes of the program.

As is the case with many transit agencies around the country, the County transit advertising program places strong emphasis on generating revenue to benefit the transit system and achieving a number of other related purposes that result in enhancing transit operations. The Interim Policy is intended to achieve these purposes by:

- Supporting Transit revenues;
- Preventing the appearance of favoritism by the County;
- Preventing the risk of imposing views on a captive audience;
- Maintaining a position of neutrality on controversial issues;
- Preserving the marketing potential of the advertisement spaces;
- Maximizing ridership;
- Preventing any harm or abuse that may result from running offensive advertisements;
- Reducing the diversion of resources from transit operations that is caused by controversial advertisements; and
- Advancing police power and public health interests to avoid content that may be harmful to minors and other members of the public.

Interim Policy

Under the Interim Policy, the County will not authorize approval of any new proposals for advertising that do not meet the standards set forth herein. Under the Interim Policy the following classes of advertising are prohibited:

1. Any advertising that (i) promotes or depicts the sale, rental, or use of, or participation in, the following products, services or activities; or (ii) that uses brand names, trademarks, slogans or other material which are identifiable with such products, services or activities.
 - A. tobacco products
 - B. beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law
 - C. films rated "X" or "NC-17" or video games rated "A" or "M"
 - D. adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments
 - E. adult telephone services, adult Internet sites and escort services

2. Any advertising that promotes any activity or product that is illegal under federal, state or local law.
3. Any advertising that contains or involves the following:
 - A. Any material that describes, depicts or represents sexual or excretory organs or activities in a way:
 - (1) which the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest of minors in sex; and
 - (2) which is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable material for minors to see; and
 - (3) which, when considered as a whole in the context in which it is used, lacks serious literary, artistic, political, medical, health or scientific value.

For purposes of this subsection, "sexual or excretory organs" shall mean and include the male or female pubic area, anus, buttocks, genitalia, or any portion of the areola or nipple of the female breast and "sexual or excretory activities" shall mean and include actual or simulated sex acts of every nature (including but not limited to touching of one's own or another's clothed or unclothed sexual or excretory organs), urination and defecation.
 - B. Any material that depicts, or reasonably appears to depict, a person under the age of eighteen (18) exhibiting his or her sexual or excretory organs or engaging in sexual or excretory activities.
 - C. Any material that the Consultant knows or reasonably should have known is false, fraudulent, misleading, deceptive or would constitute a tort of defamation or invasion of privacy.
 - D. Any material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system.
 - E. Any material directed at a person or group that is so insulting, degrading or offensive as to be reasonably foreseeable that it will incite or produce imminent lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order.
 - F. Flashing lights, sound makers, mirrors or other special effects that interfere with the safer operation of the bus or the safety of bus riders, drivers of other vehicles or the public at large.

4. Any advertising from non-governmental entities if the subject matter and intent of said advertising is non-commercial. Specifically, acceptable advertising must promote for sale, lease or other form of financial benefit a product, service, event or other property interest in primarily a commercial manner for primarily a commercial purpose. Governmental entities, meaning public entities specifically created by government action, may purchase advertising space for messages that advance specific government purposes. It is the County's intent that government advertising will not be used for comment on issues of public debate.

cc: Harold Taniguchi, Director, Department of Transportation
Pete Ramels, Senior Deputy Prosecuting Attorney, Prosecuting Attorneys Office
Sharron Shinbo